

PUBLIC EMPLOYEES' RETIREMENT BOARD

August 13, 2015

Topic: Bull Lake VFD

Acceptance of past Certificates that increase members' years of service

Staff recommendation:

Staff recommends the 4 members for FY2011, 8 members for FY2012 and the 13 members for FY2013 be granted a year of credited service for the fiscal years they qualify for credit. The members were listed on the late filed FY Annual Certificates and verified to receive credit for those fiscal years within 19-17-112(5), MCA.

Board Motion:

☐

Uphold Staff Recommendation

☐

Other.

Moved by

Seconded by

Vote

INFORMAL CONSIDERATION

August 13, 2015

Petitioner: Bull Lake Volunteer Fire Department
Fire Chief: Clyde Miller
Contact: Clyde Miller

Retirement System: VFCA

Request for Board

Consideration:

The Bull Lake VFD is requesting that the Board accept the late filed Annual Certificates for the fiscal years 2011, 2012 and 2013 and the amended FY2010 Annual Certificate. The Annual Certificate was signed by the Fire Chief and notarized. Included was the training documentation by fiscal year as is required. See details below.

How many fiscal years is the department requesting to file?

Three; 2011, 2012, and 2013

How many specific years of service are being requested?

FY2010; 0 members (found to be correctly filed originally)

FY2011; 4 members

FY2012; 8 members

FY2013; 13 members

Has the actuary evaluated the impact of these years of service on the VFCA plan?

NO

Has the volunteer fire department filed the necessary qualifications as required by State law?

Yes

Was the appropriate training documentation submitted?

Yes

How many times has the department filed late in the last 10 years?

Three years – FY2011, FY2012, and FY2013

Give details of any problems:

Problems encountered were in the receipt of the necessary information from the Fire Chief and MPERA's time constraints in getting to the information for presentation to the Board.

Bull Lake Volunteer Fire Department

Acceptance of past Certificates that increase members' years of service

Summary:

Pursuant to § 19-17-112 (5), MCA a late or amended annual certificate and the associated certified training records must be filed within 3 years of the original annual certificate due date. An annual certificate may only be amended once.

The FY2010 was originally filed on July 2, 2010 with one member receiving credit. Training was sent to MPERA on February 14, 2014. The training information showed that the original filing of the FY2010 Annual Certificate was correct as filed on 7/2/2010. No other members qualified for credit.

The original filing of the FY2011 Annual Certificate was due on September 1, 2011 and was received on October 17, 2011. In order to be considered for a late filing, information needed to be received before September 1, 2014. Certified training documentation and a letter from fire chief was received on February 14, 2014. Therefore, the information was received in MPERA's office within the 3 years of the original due date of September 1, 2011. Four members qualify for credit for FY2011.

The original filing of the FY2012 Annual Certificate was due on September 1, 2012. In order to be considered for a late filing, information needed to be received before September 1, 2015. The annual certificate was received on February 14, 2014 with the required certified training documentation and a letter from the fire chief. Therefore, the information was late filed within the 3 years of the original due date of September 1, 2012. Eight members qualify for credit for FY2012.

The original filing of the FY2013 Annual Certificate was due on September 1, 2013. In order to be considered for a late filing, information needed to be received before September 1, 2016. The annual certificate was received on February 14, 2014 with the required certified training documentation and a letter from the fire chief. Therefore, the information was late filed within the 3 years of the original due date of September 1, 2013. Thirteen members qualify for credit for FY2013.

Correspondence:

2010 – Phone call from Bull Lake VFD Board member Gerald Wallace. Mr. Wallace says they would like to become qualified again and start filing the Annual Certificates. The last certificate filed for Bull Lake VFD was FY 1997. In February Mr. Wallace sent a letter with documentation necessary to become qualified again under the VFCA. A follow up letter was sent to Mr. Wallace regarding the late filing of the VFCA Annual Certificates for FY1998 through FY2009 and also requesting a letter of explanation from the fire chief and certified training documents for each of the fiscal years. In May a letter and VFCA Annual Certificates were received from Fire Chief Casey. The Annual Certificates were for FY1998 to FY2009. He said in the

letter that there were no records found from fiscal year 1998 thru fiscal year 2003 and had marked the Annual Certificates as such, *NO RECORDS FOUND*. Fire Chief Casey also filled out and sent in the Annual Certificates for FY2004 through FY2009; however, there were no certified training documents received for those years.

2011 – FY2011 VFCA Annual Certificate was received late. A letter was sent to new Fire Chief Miller that the FY2011 VFCA Annual Certificate was received after the September 1, 2011 due date. The letter explained the new 2011 Legislative statute on filing late Annual Certificates and requested the certified training documentation and letter of explanation from the fire chief. Call received from Fire Chief Miller about the past annual certificates of FY2004 through FY2009. He explained there were no training documents and the fire department reorganized in August 2009. Notification was sent concerning the change of fire chief and the need for written notification before the database could be updated.

2012 – A follow up letter was sent to Fire Chief Miller concerning the need of written notification before the database could be updated. An additional letter was sent to the Fire Chief notifying him that MPERA had not received the FY2012 VFCA Annual Certificate. This letter included a request for certified training documentation, a letter of explanation from the fire chief, and the filing of the roster for the current FY2013.

2013 – In February, a letter was sent to Fire Chief Casey giving notice that only 15 days remained until the 90 day extension period expired for a late filing to be made. The letter also requested the certified training documentation for the fiscal year 2012 and the roster for fiscal year 2013. In May, a letter was sent to Fire Chief Miller informing him that we had not received the requested information with the previous two letters. In December a letter was sent to Fire Chief Miller informing him that MPERA had not received the VFCA Annual Certificates for FY2009, FY2011, FY2012, and FY2013. The letter also requested certified training documentation for the respective fiscal years; the roster for the current fiscal year -FY2014; a letter of explanation from the fire chief; and any membership cards for new members. The Supplemental Insurance Claim for FY2014 was sent at this time.

2014 – In February, MPERA received a letter from Fire Chief Miller along with Rosters for FY2010, FY2011, FY2012, and FY2014; VFCA Annual Certificates for FY2011, FY2012, FY2013, and a copy of FY2010 and training documentation for the respective fiscal years.

2015 – In June, Ms. Diann Levandowski and Executive Director Dore Schwinden called Fire Chief Miller asking specific questions on the information that was received so resolution of the amended and late filings could be resolved and presented to the Board at their August 13, 2015 meeting.

RELEVANT LAW AND RULES:

Montana Code Annotated (Effective before July 1, 2011)

19-17-108. Credit for service as volunteer firefighter – records. (1) The annual period of service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count toward the service required for participation in this system. To be eligible to receive credit for any particular year, a volunteer firefighter shall serve with a fire company throughout the entire fiscal year.

(2) The years of service are cumulative and need not be continuous. Separate periods of service properly credited with different fire companies must be credited toward a member's eligibility for full or partial benefits.

(3) A volunteer firefighter must receive credit for service during any fiscal year if:

(a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of training in matters pertaining to firefighting under a formal program that has been formulated, supervised, and certified to the board by the chief or designated official of the fire company;

(b) the volunteer firefighter's participation in the training program is documented in the fire company's records filed and maintained by the chief or designated official; and

(c) the fire company maintained firefighting equipment that is in serviceable condition and owns, rents, or uses one or more buildings used for the storage of that equipment that all together are valued at \$12,000 or more.

(4) The chief or designated official of each fire company shall keep and maintain training records for each current and former volunteer firefighter who is or was a member of the fire company.

Montana Code Annotated (Effective July 1, 2011)

19-17-108. Credit for service as a volunteer firefighter – records. (1) The annual period of service that may be credited under this chapter is the fiscal year. A fractional part of a year may not count toward the service required for participation in this system. To be eligible to receive credit for any particular year, a volunteer firefighter shall serve throughout the entire fiscal year with a single fire company that is organized under Title 7, chapter 33, and continues to meet the requirements of 19-17-109.

(2) The years of service are cumulative and need not be continuous. Separate periods of service properly credited with different fire companies must be credited toward a member's eligibility for benefits.

(3) A volunteer firefighter may not receive credit for service during any fiscal year unless:

(a) during the fiscal year, the volunteer firefighter completes a minimum of 30 hours of training in firefighting duties as outlined in 19-17-105 under a formal program that has been formulated, supervised, and certified to the board by the chief or designated official of the fire company; and

(b) the volunteer firefighter's participation in the training program is documented in the fire company's records maintained pursuant to 19-17-111 by the chief or designated official.

Montana Code Annotated (Effective July 1, 2011)

19-17-112. Filing required reports – limitations. (1) The chief or designated official of each fire company that claims eligibility under this chapter shall, on or before September 1 of each year, file with the board an annual certificate, the current year's roster, and a membership card for each new member.

(2) (a) The annual certificate is a form reporting a fire company's membership eligibility for the previous fiscal year.

(b) The annual certificate must be completed on a form prescribed by the board and contain the date of organization of the fire company and the full name, social security number, and date of birth of each member of the fire company who was a member for the entire fiscal year and who successfully completed 30 hours of training during the preceding fiscal year, as required by 19-17-108.

(c) The chief or designated official shall subscribe and verify under oath, before a notary, that the fire company and members qualified under 19-17-108 and 19-17-109.

(d) The board shall maintain the certificate for the purpose of establishing service for members and eligibility for benefits.

(3) The roster must be signed by the fire chief or designated official, filed with the board, and contain information in writing that provides the names of the fire company, its date of organization, officers, and roll of active and inactive members for the current fiscal year. A roster may be updated to report new members but may not be retroactive.

(4) A membership card must be completed and filed with the board for each member who was a member on or before July 1, 2011, and for each new member who joins after July 1, 2011.

(5) The current fire chief shall file any late or amended annual certificates and the associated certified training records within 3 years of the original annual certificate due date. An annual certificate may be amended only once. The board shall consider and may approve late filings. Information provided to the board by the fire chief must be in accordance with the board's rules.

(6) The current fire chief may request to appear before the board for consideration of the request to file a late or amended annual certificate.

Montana Code Annotated (Effective before July 1, 2011. Repealed in 2011 Legislature and added to 19-17-112, MCA)

19-17-402. Certificate of eligibility. The chief or designated official of each fire company that claims eligibility under this chapter shall, on or before September 1 of each year, file a certificate on a form to be provided by the board, subscribed and verified under oath before a notary, stating whether the company qualified under [19-17-108](#)(3) during the preceding fiscal year. The certificate must contain the date of organization. The certificate must list the full name, social security number, and date of birth of each member of the fire company who was a member for the entire fiscal year and satisfactorily completed 30 hours of training during the preceding fiscal year, as required by [19-17-108](#)(3). The certificate must be maintained by the board for the purpose of establishing service for members and eligibility for benefits.

MPERA ARM

2.43.5001 BASIC UNIT OF SERVICE (1) As of July 1, 1965, the basic unit of service for volunteer firefighters is one fiscal year. Volunteer firefighters not continuously on the active membership list of a single qualifying volunteer fire company for the entire fiscal year shall not be listed on the annual certificate and shall not receive credit for service under the Volunteer Firefighters' Compensation Act (VFCA) for that fiscal year. A volunteer fire company qualifies to participate in the VFCA if the requirements of 19-17-402, MCA, are met.

(2) A volunteer firefighter shall receive one year of credit for service under the VFCA for each two full fiscal years of service performed prior to July 1, 1965. (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-401, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.801, 2008 MAR p. 2467, Eff. 12/01/08.)

2.43.5002 FAILURE TO FILE REQUIRED REPORTS (1) In order to receive credit for service under the VFCA, volunteer fire companies must file an "annual certificate" with MPERA. The certification is a report by the fire chief that the members listed on the certificate were active for the full fiscal year and also had the required 30 hours of training. This report is on a fiscal year basis (July through June) and is due by September 1 of each year. The annual certificate is signed by the fire chief and notarized. Annual certificate forms are provided by MPERA.

(2) Annual certificates filed after the September 1 due date must be appealed to and considered by the board for approval. Information provided to the board by the fire chief or designated official must include:

- (a) the original, notarized annual certificate;
- (b) certified training documents showing the required 30 hours of training per listed member;
- (c) a letter from the fire chief explaining why the annual certificate was not filed timely; and
- (d) if requested by the fire chief, oral argument before board. (History: 19-17-203, MCA; IMP, 19-17-201, 19-17-402, MCA; NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2003 MAR p. 1188, Eff. 6/13/03; AMD & TRANS, from ARM 2.43.802, 2008 MAR p. 2467, Eff. 12/01/08.)